

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**JAMES G. GARCIA,**

Plaintiff,

v.

**BEN CURRY, Warden, et al.,**

Defendants.

C 07-6262 CRB (PR)

**[PROPOSED] ORDER  
GRANTING SUMMARY  
JUDGMENT**

Defendants A. Tucker, B. Curry, V. Khan, D. N. McCall, A. E. Roberts, and P. Barker (Defendants) have moved this Court for summary judgment. After full briefing on the matter, the Court grants Defendants' motion. Defendants did not retaliate against Garcia based on his status as a MAC member. Rather, Defendants' alleged retaliatory actions were taken in furtherance of legitimate penological goals, specifically, that of maintaining institutional safety. These actions did not violate Garcia's First Amendment rights and do not provide a basis for retaliation claims. *Pratt v. Rowland*, 65 F.3d 802, 806 (9th Cir. 1995).

///

///

[Proposed] Order Granting Defs.' Mot. Summ. J.

*J. G. Garcia v. B. Curry, et al.*  
C 07-6262 CRB (PR)

1 Moreover, Garcia has not received any constitutional harm as a result of any of the alleged  
2 actions. *See Rhodes v. Robinson*, 408 F.3d 559, 567-567 & n.11 (9th Cir. 2005).

3  
4 Therefore, after full consideration, and good cause appearing, IT IS HEREBY ORDERED  
5 that Defendants' motion for summary judgment is granted.

6  
7  
8 \_\_\_\_\_  
9 Date

\_\_\_\_\_ HON. CHARLES R. BREYER  
United States District Judge

10  
11 20137538\_1.wpd

12 SF2008401837  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **J. G. Garcia v. B. Curry, et al.**

No.: **C 07-6262 CRB (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 2, 2008, I served the attached

**DEFENDANTS' NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT**

**DECLARATION OF L. KORMAN IN SUPPORT OF DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

**[Proposed] ORDER GRANTING SUMMARY JUDGMENT**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**James G. Garcia, K-26584**  
**Ironwood State Prison**  
**P.O. Box 2229**  
**Blythe, CA 92226**  
*Pro Per*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 2, 2008, at San Francisco, California.

T. Oakes

Declarant

/s/ T. Oakes

Signature